

 <p style="text-align: center;">County of Sacramento Department of Health Services Division of Behavioral Health Services Policy and Procedure</p>	Policy Issuer (Unit/Program)	BHS-CMH-YDF
	Policy Number	08-08
	Effective Date	10/2009
	Revision Date	07/2017
Title: Penalties for Privacy Violations	Functional Area: Health Information Management	
Approved By:		
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Background/Context:

The Sacramento County Juvenile Justice Institutions Mental Health Team (JJIMHT) must have and apply appropriate sanctions against workforce members who fail to comply with the County’s Health Insurance Portability and Accountability Act (HIPAA) policies and procedures. These sanctions do not apply to whistleblowers and workforce members who are the victim of crime.

All County of Sacramento workforce members, including employees, volunteers, contractors, registry personnel, interns, medical residents and business associates must guard against improper uses or disclosures of a County of Sacramento client’s protected health information (PHI).

If the County of Sacramento and/or JJIMHT fails to enforce privacy safeguards and apply appropriate sanctions against employees who fail to comply with Sacramento County HIPAA policies and procedures, the County of Sacramento may be subject to administrative penalties by the United States Department of Health and Human Services (DHHS), including federal funding penalties.

Purpose:

The objective of this policy and procedure is to provide guidelines by which the JJIMHT members may be sanctioned in the event a member fails to comply with HIPAA policies and procedures.

Details:

All members of the HIPAA Covered Component Workforce sign the County HIPAA Privacy and Security Policies and Procedures Acknowledgement Form (Form #3013) indicating they have received HIPAA training and that they understand their responsibilities to comply with Countywide HIPAA Policies and Procedures and the potential consequences for violation of such.

1. General Guidelines
 - A. JJIMHT members who violate County of Sacramento policies and procedures associated with the safeguarding of an individual's protected health information are subject to appropriate disciplinary action by the County of Sacramento, up to and including, immediate dismissal from employment.
 - B. Supervisors are responsible for ensuring that employees who have access to confidential information, whether it be in electronic, print or oral form, are informed of their responsibility to comply with HIPAA regulations.
 - C. JJIMHT members who knowing and willfully violate state or federal law for improper invasions of personal privacy may be subject to:
 - I. Criminal investigation and prosecution both by the County of Sacramento and by the federal government depending on the nature of the violation. Federal and state laws provide substantial fines and prison sentences upon conviction depending on the nature and severity of the violation.
 - II. Civil monetary penalties that the Federal Department of Health and Human Services may impose as described in the Code of Federal Regulations Title 45, Chapter A, Subchapter C, Part 160, Subpart D, Section 160.404 (45 CFR 160.404).
 - III. Members may be subject to accreditation, licensure sanctions, or even criminal and civil prosecutions under other federal and state regulations.
 - D. Improper uses and disclosures of PHI shall be reported as security incidents and investigated by the Office of Compliance.
 - E. The County of Sacramento must mitigate, to the extent practicable, any harmful effect that is known to the County of Sacramento of a use or a disclosure of PHI in violation of its policies and procedures.
2. Employee Assistance Related to Use and Disclosure
 - A. JJIMHT members, volunteers, contractors, interns, medical residents and registry personnel who are unsure if a disclosure is permitted, are advised to consult with a supervisor in the County of Sacramento workplace.
 - B. The Sacramento County Office of Compliance is a resource for any Sacramento County covered component that cannot resolve a disclosure question and may be consulted in accordance with the operational procedures of that County of Sacramento component.
3. Prohibited Responses to Individual(s) Filing Complaint
 - A. Neither the County of Sacramento as an entity nor any employee will intimidate, threaten, coerce, discriminate against or take any other form of retaliatory action against:
 - I. Any individual for exercising any right established under policy or for participating in any process established under policy, including the filing of a complaint with the County of Sacramento or with the Federal DHHS Office for Civil Rights (OCR).
 - II. Any individual or other person for testifying, assisting or participating in an investigation, compliance review, proceeding or hearing relating to the County of Sacramento or JJIMHT policies and procedures.

- III. Any individual opposing any unlawful act or practice, provided that, the individual or other person has a good faith belief that the act or practice being opposed is lawful and the manner of such opposition is reasonable and does not involve a use or disclosure of an individual's PHI in violation of policy.
4. Whistleblowers and Workforce Crime Victims
 - A. An employee or business associate may disclose an individual's PHI if:
 - I. The employee or business associate believes, in good faith, that the County of Sacramento has engaged in conduct that is unlawful or that otherwise violates professional standards or County of Sacramento policy, or that the care, services or conditions provided by the County of Sacramento could endanger County of Sacramento employees, persons in the County of Sacramento's care or the public; and
 - II. The disclosure is to an oversight agency or public authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of the County of Sacramento.
 - III. The disclosure is to an appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or of misconduct by the County of Sacramento.
 - IV. The disclosure is to an attorney retained by or on behalf of the employee or business associate for the purpose of determining the legal options of the employee or business associate with regard to this policy.

Reference(s)/Attachments:

DBHS HIPAA Privacy and Security Policies and Procedures Acknowledgement Form

Related Policies:

BHS-CMH-YDF-08-06-HIPAA Complaints and Breach of PHI/EPHI Protocol

BHS-CMH-YDF-08-09-Release of Protected Health Information

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